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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/751,533   | 01/06/2004  | Lou H. Seymour       | PAT 942-2                | 3302             |
| 26123  | 7590        | 10/05/2004           | EXAMINER                 |                  |
| BORDEN LADNER GERVAIS LLP<br>WORLD EXCHANGE PLAZA<br>100 QUEEN STREET SUITE 1100<br>OTTAWA, ON K1P 1J9<br>CANADA |             |                      | PRICE, RICHARD THOMAS JR |                  |
|  |             | ART UNIT             | PAPER NUMBER             |                  |
|  |             | 3643                 |                          |                  |
| DATE MAILED: 10/05/2004  |             |                      |                          |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                          |                     |  |
|------------------------------|--------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>   | <b>Applicant(s)</b> |  |
|                              | 10/751,533               | SEYMOUR, LOU H.     |  |
|                              | Examiner<br>Thomas Price | Art Unit<br>3643    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

The priority document is listed in the oath, however, the appropriate box has not been checked.

### *Drawings*

The drawings are objected to because In Figures 4 and 5, elements 10 and 14 are unclear as to which elements the Applicant is referring to. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, 11-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Amato U.S. Patent 5,918,611.

Amato teaches an animal umbrella which is structurally similar to the Applicant's claimed invention. The Applicant's attention is directed to Figures 1, 9 and 11. The device to Amato teaches a saddle having straps connected thereto, a collapsible canopy and a shaft with first and second ends. The second end of the shaft is connected pivotally to the saddle. A position lock, see Figures 6, 7 and 9, releasably secures the shaft in the vertical position. In regards to claim 2, the straps extend around the torso of the animal and at least two legs when fitted to the animal.

Regarding claim 9, the canopy is substantially rectangular in shape. In regards to claim 12, as seen in Figures 6 and 9, the elements for holding the canopy are considered to be a clip lock. Regarding claim 13, straps are used to hold the canopy holder, see Figure 8. As for claim 16, Figure 9 shows the plate attached to the saddle, first and second mutually parallel planar member, a first pin passes through the first planar member through a first hole in the second end of the shaft. Regarding claim 19, element 81 is considered to be a ring that encircles the tube 34, when engaged, tightens the metal ring and secures the shaft.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amato in view of Gatto U.S. Patent 6,539,898. Amato does not teach the use of an adjustable strap nor the use of hook and loop fasteners. Gatto teaches animal protective screen having adjustable straps that use convention buckles and clasps, and Velcro. Regarding the claims, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Amato with adjustable strap fasteners, in view of the teachings of Gatto, in order to allow the device to be used with a variety of sized animals.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amato U.S. Patent 5,918,611.

Amato does not discuss an adjustable shaft. However, the use of a telescopic or shaft is considered to be well known and deemed to be obvious to one of ordinary skill in the art at the time the invention was made for making the device collapsible and thus easily storeable.

***Conclusion***

Summary: Claims 1-19 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas Price  
Primary Examiner GAU: 3643

rtp